

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES

Call to Order: By **CHAIRMAN CHRISTINE KAUFMANN**, on January 25,
2005 at 8:10 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Christine Kaufmann, Chairman (D)
Sen. Dan Weinberg, Vice Chairman (D)
Sen. John Cobb (R)
Rep. Joey Jayne (D)
Sen. Greg Lind (D)
Rep. Penny Morgan (R)

Members Excused: Rep. Walter McNutt (R)

Members Absent: None.

Staff Present: Pat Gervais, Legislative Branch
Laura Good, Committee Secretary
Lois Steinbeck, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

CHAIR REP. CHRISTINE KAUFMANN, HD 81, HELENA, called the meeting to order at 8:10 A.M.

Ms. Steinbeck provided and discussed a handout on the Medicare Modernization Act (MMA).

[EXHIBIT\(jhh19a01\)](#)

{Tape: 1; Side: A; Approx. Time Counter: 5.8}

Mr. Jeff Buska, Senior Medicaid Policy Officer, Department of Public Health and Human Services, gave the committee several handouts.

[EXHIBIT\(jhh19a02\)](#)

[EXHIBIT\(jhh19a03\)](#)

[EXHIBIT\(jhh19a04\)](#)

Mr. Buska clarified that Montana is a part of the Center for Medicare/Medicaid Studies' (CMS) Prescription Drug Upper Midwest-Northern Plains Region, which includes Iowa, Minnesota, Nebraska, North Dakota, South Dakota, and Wyoming.

Mr. Buska began detailed discussion with Exhibit 2, which includes a brief review of key definitions and requirements under MMA related to Medicaid (Page 1), and the Clawback Phase-Down State Contribution (Page 2).

{Tape: 1; Side: A; Approx. Time Counter: 18.3}

REP. JOEY JAYNE, HD 15, ARLEE, asked for a list of Medicaid, Medicare and MMA acronym definitions.

Mr. Buska agreed to provide this.

{Tape: 1; Side: A; Approx. Time Counter: 20.8}

Mr. Buska continued with Exhibit 2, Page 4, covering Montana's issues with the Clawback Baseline Calculation.

{Tape: 1; Side: B}

SEN. JOHN COBB, SD 9, AUGUSTA, requested more details about the National Health Expenditure (NHE) Inflation Factor.

Mr. Buska reported NHE Inflation Factors of 12.49% for 2002-2003 and 17% for 2004-2005. The Department believes that the 2005-2006 NHE Inflation Rate will fall either between or above these rates.

Mr. John Chappuis, Deputy Director, DPHHS, noted that savings or expenses incurred by the Preferred Drug List (PDL) will not affect the NHE Inflation Factor.

Mr. Buska also told the committee that the January 2006 federal Medical Assistance Percentage (FMAP) rate will be applied to MMA calculations involving the NHE inflation factor.

{Tape: 1; Side: B; Approx. Time Counter: 5.6}

Ms. Steinbeck reminded the committee that while negotiating MMA calculations, members should keep in mind the importance of the cost per eligibles factor and the number of eligibles factor. She led the committee through a mock exercise regarding Montana's Clawback baseline calculation.

Mr. Buska continued with his discussion of the Federal Government's issues with the Clawback Baseline Calculation, Page 5; appeals of the CMS Clawback Calculation, Page 5; and issues related to Montana's Clawback payments to the Federal Government, Page 5-6.

{Tape: 1; Side: B; Approx. Time Counter: 21.4}

SEN. COBB asked how often Medicaid consumers are found to be retro-active Medicaid-Medicare dual benefit eligible.

Mr. Buska stated that this occurs with some frequency, as during its last "clean-up" the Federal Government found approximately 20,000 (20% of) Medicaid consumers to be retro-active Medicaid-Medicare dual benefit eligible. Responding to a question from **CHAIR KAUFMANN**, **Mr. Buska** said that Medicare retro-billing goes to the general fund, through which it is distributed appropriately to Federal Government and federal entities. He also maintained that per the woodwork effect, during MMA outreach 1% of the Federal Government's current Medicare population is likely to be identified as Medicaid eligible.

SEN. COBB asked DPHHS how the Federal Government misidentified 20,000 dual-eligible individuals.

Mr. John Chappuis, Deputy Director, DPHHS, remarked that this misidentification happened over the course of a long period of time, and that the Department is working to ensure that this situation is not repeated.

CHAIR KAUFMANN sought clarification of the 1% woodwork effect Medicaid-eligible population mentioned by Mr. Buska.

Mr. Buska claimed that CMS has not clarified this number for the Department, but that the Department assumes that the 1% Woodwork Effect Medicaid-eligible population refers to 1% of current Medicare-eligible seniors.

Mr. Chappuis noted that the 1% Woodwork Effect projection is disturbingly low, based on the Woodwork Effect experienced during CHIP outreach.

{Tape: 2; Side: A}

Mr. Buska returned to Exhibit 2, Page 6, for a discussion of the growth factor. He mentioned to the committee that Montana has no control over the growth factors used to inflate baseline Clawback calculations after 2006.

CHAIR KAUFMANN invited the Department to comment on Full-Time Equivalent (FTE) staffing needs posed by the MMA workload.

Mr. Chappuis stated that in anticipation of workload increase, the Department used FTE's from across divisions to create the Office of Program Coordination and Analysis.

Ms. Steinbeck noted that workload increases will impact every division dealing with dual-eligible individuals, especially staff working with eligibility determination and grievance processes.

Mr. Chappuis requested that the committee provide the Department with the opportunity to use any Clawback savings toward funding shortages precipitated by this workload increase. Responding to a question from **SEN. COBB**, **Mr. Chappuis** Stated that he would very much like to work with Legislative Fiscal Division (LFD) staff to craft language allowing DPHHS to put Department savings toward MMA-related staff needs. He noted that such a situation would require Office of Budget and Program Planning (OBPP) approval.

Mr. Bob Andersen, OBPP representative, suggested that the Department might benefit from the use of modified, rather than permanent FTE's.

{Tape: 2; Side: A; Approx. Time Counter: 10.2}

Mr. Buska resumed his discussion of Exhibit 2, detailing Federal Government responsibilities regarding low-income subsidy activities, per the January 21, 2005 CMS Fact Sheet (Pages 6-7).

{Tape: 2; Side: A; Approx. Time Counter: 17.6}

Ms. Steinbeck asked if Clawback calculations will include Medicaid eligibles determined by both the Federal Government and Federal Government enrollment, or only Federal Government enrollment?

Mr. Buska Stated that the Clawback will apply only to individuals determined to be full-benefit dual-eligible who, under entitlement, receive Medicaid prescription drug benefits. He noted that through the Woodwork Effect, the Federal Government may pick up Medicare-only eligibles who do not receive the Medicaid prescription drug benefit. He emphasized that Clawback payments are not required for this second population.

Mr. Buska continued on Page 7, discussing system changes for data exchanges between CMS and the Federal Government.

SEN. COBB solicited more information regarding the Federal Government's technological preparedness for this matter.

Mr. Buska confirmed that programming- and software-related system changes should occur on time.

Mr. Buska then returned to Page 7, discussing MMA's impact on medically needy clients with spend downs, and continuing through bulleted points.

Responding to a follow-up question from **SEN. COBB, Mr. Buska** Stated that the Department is using existing financial resources to implement system changes.

Mr. Chappuis described the funding situation more fully, noting that the Department currently uses funds from the base for system changes, and hopes to obtain 90-10 federal-Federal Government matching monies to cover the expenses.

Mr. Buska then turned to Page 8, discussing other Federal Government impacts of MMA.

{Tape: 2; Side: B}

Ms. Steinbeck asked how changes to Long-Term Care (LTC) pharmacies may affect the Montana Development Center and Montana's Veterans' Homes.

Mr. Buska offered that while the MMA does not affect prescription drug services at in-patient facilities like MDC, it may affect the prescription drug benefits of specific in-patient facility residents.

Mr. Buska closed discussion of Exhibit 2 with discussion of Page 8, Prescription Drug Plan (PDP) formularies and drug coverage for full benefit duals. He covered a number of ancillary points, directing the committee to Exhibit 3, bottom of Page 3 and top of Page 4, final two paragraphs of Page 5, and top of Page 6. He also noted Exhibit 4, Page 2 and Page 6.

Responding to Ms. Steinbeck's question about specific MMA prescription drug plans offered in specific Federal Governments, **Mr. Buska** assured the committee that the Federal Government and its eligibility determination staff would not enroll MMA-affected individuals in prescription drug benefit programs not offered in Montana.

{Tape: 2; Side: B; Approx. Time Counter: 9.3}

SEN. COBB inquired as to the Department's plans for system change crisis management and grievance processes.

Mr. Buska described proposed crisis management tactics and also Stated that the Department anticipated consumers would file the largest number of grievances in regards to prescription drug benefits.

Responding to **SEN. COBB**'s follow-up question regarding the Department's limited staff, **Mr. Chappuis** emphasized again the need for FTE flexibility. He also took the opportunity to discuss the proceedings of the MMA work-group and introduced its chair, Ms. Mary Dalton.

SEN. COBB voiced further concerns about the Department's ability to absorb and handle the MMA workload.

Mr. Buska described the Department's networking efforts with the Montana Comprehensive Health Association (MCHA) and the Primary Care Association regarding the need for patient education about MMA. He also iterated that the Department will do its best to identify and implement the best grievance mechanisms, and gave the example of a proposed grievance hotline.

{Tape: 2; Side: B; Approx. Time Counter: 13.3}

Ms. Steinbeck expressed her concerns about and impressed upon the committee the importance of individuals linking up with the most appropriate prescription drug plan. She noted that a lag in this process could result in discontinuity of drug care and the possibility of increased populations at Federal Government facilities like the Montana Federal Government Hospital (MSH). She remarked on the significance of outreach efforts and

encouraged the committee to discuss MMA patient education issues with representatives of the Senior and Long-Term Care (SLTC) division. **Ms. Steinbeck** also noted the LFD issue regarding a wrap-around program to complement the MMA process.

Finally, **Mr. Buska** provided the committee with a proposed MMA advertising leaflet.

EXHIBIT(jhh19a05)

Following a break, **CHAIR KAUFMANN** reconvened the committee.

Mr. Chuck Hunter, Administrator, Health Resources Division (HRD), resumed discussion of the HRD Overview, referring to Exhibit 5 from Monday, January 24, 2005. He discussed Page 41, New Proposal (NP) 62, Childrens' Mental Health Field Staff funding and roles; Page 42, Childrens' Mental Health Bureau, Comparison of Administration and Benefits Expenditures, Actual SFY 2004 and SFY 2004 Expenditures Adjusted to Reflect NP 42; Page 43, NP 43, Medicaid Analysis; and Page 44, NP 44, Passport Services.

{Tape: 3; Side: A}

Responding to a question from **SEN. COBB** about why the division chose to move a contracted Passport Services project in-house, **Ms. Mary Angela Collins, Chief, Managed Care Bureau**, Stated that the division better understands its program and can better utilize its data analysis system than the contracted company.

{Tape: 3; Side: A; Approx. Time Counter: 2.3}

Mr. Hunter moved on to a discussion of Page 45, Care Management issues, which include Page 46, Passport Program; Page 47, Nurse First Advice Line; Page 48, Disease Management; and Page 49, Team Care.

Responding to question from **SEN. COBB**, **Mr. Hunter** stated that savings as noted are net total fund savings.

Ms. Steinbeck remarked that given the fact that the savings indicators under discussion are not included in the trend data, the committee may want to ask about how such savings will be included in data trends.

SEN. WEINBERG requested that Mr. Hunter characterize the individuals who are under Team Care.

{Tape: 3; Side: A; Approx. Time Counter: 13.2}

Mr. Hunter stated that the three main Team Care consumer populations are individuals with mental health issues, drug-seeking individuals, and individuals seeking social contact. Responding to follow-up questions from **SEN. WEINBERG**, **Mr. Hunter** stated that Team Care attempts to increase access to appropriate care services. He also confirmed that Team Care redirects consumers as appropriate to mental health care, addiction services and other needed programs, and that the Nurse First Line often provides such referrals.

CHAIR KAUFMANN described Medicaid as an entitlement program from which the Federal Government cannot cut individuals, described Team Care as an attempt to maximize appropriate use of the entitlement program, and sought confirmation of these descriptions from **Mr. Hunter**.

Mr. Hunter confirmed that these descriptions are accurate, and continued on to Page 50, NP 112, Expand Nurse First to Non-Medicaid Native American Communities (Withdrawn).

Responding to a question from **CHAIR KAUFMANN**, **Mr. Hunter** Stated that this NP was withdrawn because the division was unable to create needed funding partnerships. He also contended that one of the only ways the division can keep non-Medicaid clients from accessing Nurse First is by publicizing the telephone number only to Medicaid consumers. He also noted that non-Medicaid clients who contact Nurse First receive service, but are reminded that the program is for Medicaid consumers only.

Mr. Hunter went on to Page 51, NP 146, Substance Abuse and Mental Health Services Administration (SAMSHA) Grant for System of Care.

{Tape: 3; Side: A; Approx. Time Counter: 21.4}

Ms. Steinbeck and **Mr. Hunter** discussed why some of the funds included in NP 146 were non-expended funds that were kept in the Division budget.

Responding to a question from **REP. JAYNE** regarding FTE's, **Mr. Hunter** discussed required staffing terms stipulated in the original SAMSHA grant, and how this affected FTE calculation. Per request, he noted that the SAMSHA grant is a six-year grant, and that the division is currently receiving its first funding year. He Stated that funds peak at the grant's mid-point and then decline to its close.

Mr. Hunter told the committee that the FTE number includes three field staff and one Helena-based administrative assistant.

CHAIR KAUFMANN asked what the division loses by moving \$50,000 into this proposal.

Mr. Pete Surdock, Bureau Chief, Childrens' Mental Health, contended that the division loses nothing, as the money transferred is savings gained from having to administrate a fewer number of reviews and appeals.

{Tape: 3; Side: A; Approx. Time Counter: 28.6}

Returning to the matter of FTE's, **SEN. WEINBERG** asked Mr. Hunter to explain how funding seven FTE positions under Childrens' Mental Health will ensure better care for consumers.

Mr. Hunter explained that the division based this FTE request on extensive research regarding the development of Childrens' Mental Health programs across the country.

{Tape: 3; Side: B}

Responding to **REP. JAYNE**, **Mr. Hunter** confirmed that HRD must return to the committee every biennial session during SAMSHA grant activity to request Federal Government match for SAMSHA funds. He also discussed the division's and the committee's need to brainstorm regarding options for financial sustainability when SAMSHA funding ends.

Mr. Hunter also confirmed that Medicaid funds might be applied to CMA program and staff funding needs.

Mr. Hunter then directed the committee to Page 52, NP 9, Continuation of Prevention and Stabilization Account (PSA).

After discussion, **Ms. Steinbeck** confirmed that this account no longer exists, and that these requested funds would come instead from I-149 monies.

Mr. Chappuis apologized for failing to communicate the PSA phase-out to HRD.

Mr. Hunter proceeded with Page 53, NP 110, Continuation of the Hospital Provider Tax; Page 54, information about the Hospital Tax; Page 55, chart regarding the Hospital Tax; Page 56, adjustments needed for the new amounts described in the Fiscal Note for SB 120. **Mr. Hunter** described this last issue in more detail, at the request of **SEN. LIND**, and also told **SEN. LIND** and the committee that the bed tax has been increased in order to pull down a higher level of federal matching funds and thereby come closer to the actual cost per bed.

Mr. Hunter passed out replacement pages for PL 1, which include PL 3001 and an accompanying letter from Mr. David Ewer, Office of Budget and Program Planning (OBPP).

(Note: these addendums were not submitted as new, separate Exhibits, but rather included within Exhibit 5 from Monday, January 24, 2005.)

{Tape: 3; Side: B; Approx. Time Counter: 20}

Ms. Steinbeck commented on PL 3001's LFD issue.

Mr. Bob Andersen, OBPP, commented on his office's errors regarding communication with the Department on the non-supplantation clause.

Ms. Steinbeck noted the need for legislative legal opinion on PL 3001.

Mr. Hunter returned to the overview, discussing bills affecting HRD, Page 58, House Bill (HB) 183, Medicaid waiver for Seriously Emotionally Disturbed (SED) Children.

REP. JAYNE asked how HB 183 would help with SAMSHA Federal Government funding match needs.

Mr. Hunter explained that HB 183 uses a portion of Childrens' Mental Health funds to create unique, individualized home and community care for SED kids, in an attempt to provide wrap-around services beyond those that Medicaid provides. He expressed the Department's hope that local groups would eventually control the waiver monies and the program itself.

{Tape: 3; Side: B; Approx. Time Counter: 28.5}

Ms. Steinbeck clarified that HB 183 funding draws on savings garnered from providing SED care in non-institutional, in-Federal Government programs.

Mr. Hunter covered Page 59, Senate Bill (SB) 120, Hospital Bed Tax.

{Tape: 4; Side: A}

Mr. Hunter continued with Page 60, HB 88, Repeal the Universal Application for Childrens' Health Programs; Page 61, SB 42, Clarify Responsibilities for Planning Childrens' Mental Health; Page 62, Reflections on HRD's Administrative Structure.

Closing the HRD Medicaid Section, **Mr. Hunter** moved on the HRD CHIP and Special Health Section, beginning with Page 66, CHIP Eligibility; Page 67, CHIP Enrollment.

Responding to a question from **SEN. LIND**, **Mr. Hunter** Stated that Montana's CHIP program currently serves 10,900 children, and that there are 22,000 potentially CHIP eligible children in Montana.

Mr. Chappuis reminded the committee that these 22,000 children likely include Medicaid eligibles, as well.

{Tape: 4; Side: A; Approx. Time Counter: 6}

Mr. Hunter conveyed that HRD has elected not to launch CHIP outreach because appropriated program funds are too low to serve all potential eligibles, resulting in a large unserved wait list. He also noted that the CHIP wait list of screened and confirmed eligibles currently numbers 347.

Mr. Hunter then discussed Page 68, CHIP benefits.

Responding again to **SEN. LIND**, **Mr. Hunter** said that the Federal Government may contract its CHIP services to any insurance company. Since the inception of Montana's CHIP program, only Blue Cross Blue Shield (BCBS) has bid. He noted that CHIP is in its seventh year, and so the Federal Government will be revising the contract and seeking to secure bids from a variety of insurance companies.

Mr. Hunter covered Page 69, CHIP contract; Page 70, CHIP issues; Page 71, CHIP contract controversies; Page 72, CHIP administrative options.

Ms. Steinbeck noted that BCBS assumed rights to \$1.3 million CHIP reserve funds and donated it to BCBS's Caring Program. Otherwise, the CHIP program would have a \$3 million reserve. She Stated that she was unsure as to how the re-bidding process would affect future access to current reserves.

Mr. Hunter commented on the matter of future reserves and the option of using these reserves to buy down premiums. He also Stated that based on actuarial consulting from Mellon and Company, the Federal Government does not foresee any future CHIP reserves. Responding to a question from **SEN. LIND**, **Mr. Hunter** stated that Mellon and Company predicted that BCBS might lose money this year on Montana's CHIP program.

{Tape: 4; Side: A; Approx. Time Counter: 23.3}

Responding to **REP. PENNY MORGAN, HD 57, BILLINGS, Mr. Hunter** indicated that CHIP does not cover prenatal care, but that it can cover a premature baby.

Ms. Jackie Forba, Bureau Chief, Health Care Resources Bureau, elaborated on CHIP and Medicaid coverage options for premature babies, and discussed an unborn child's role in calculating the CHIP eligibility of other children in a family.

Mr. Chappuis confirmed that the hardship expenses caused by a premature birth could qualify a non-Medicaid family for Medicaid.

Mr. Hunter returned to the overview, discussing Page 72, CHIP Administrative Options; Page 73, Issues with CHIP Self-Administration.

{Tape: 4; Side: B}

SEN. COBB requested information on how other Federal Governments handle CHIP.

Mr. Hunter agreed to provide this information.

Ms. Steinbeck requested that DPHHS prepare a presentation for tomorrow on indirect cost allocation methodology.

ADJOURNMENT

Adjournment: 11:55 A.M.

REP. CHRISTINE KAUFMANN, Chairman

LAURA GOOD, Secretary

CK/LG

Additional Exhibits:

EXHIBIT ([jhh19aad0.PDF](#))